

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 363 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

NATIONAL INSURANCE CO.LTD.

Versus

VALABHAI SAMATBHAI VAGHELA

Appearance:

MR AJAY R MEHTA for Petitioner
MR DIVYESH SEJPAL for Respondent No. 1 to 5
MR MA KHARADI for Respondent No. 6

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/12/1999

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Under the impugned order dated 14th December, 1995 below Ex.6, in M.A.C.P. No 1199 of 1995 the Motor

Accident Claims Tribunal (Special), Kheda at Nadiad disposed of the application filed by the claimant respondent under section 140 of the M.V. Act, 1988. The petitioner and opponent No.6 were directed to pay Rs.50,000/- to the claimants with running interest at the rate of 12% per annum from the date of the application till realisation, within one month from the date of the award.

3. It is the contention of the counsel for the petitioner that the vehicle was not insured with the petitioner and as such no direction could have been given to the petitioner by the Tribunal for payment of Rs.50,000/- with interest. However, before this court, learned counsel for the claimants produced a zerox copy of the insurance policy of the vehicle. When the counsel for the petitioner was confronted with this policy he admits that the vehicle was insured but as the cheque of premium was bounced, later on this policy was cancelled. This is a question of fact which has to be decided in the claim petition but at this stage I do not find any fault what to say any illegality in the order of the Motor Accident Claims Tribunal. Moreover, whatever the findings given or orders made while dealing with the application under section 140 of M.V. Act, 1988 of the claimants are not binding on the Tribunal while deciding the main petition. However, I do not find any justification in the order of the Tribunal to give direction to the petitioner to pay Rs.50,000/- with interest to claimants. This direction is not strictly in compliance with the decision of this court and the Apex Court. On merits, though I do not consider it to be a fit case where interference has to be made in the impugned order of the Tribunal, this amount of Rs.50,000/- with interest can not be permitted to be paid to the claimants. The petitioner is directed to deposit Rs.50,000/- with interest as directed by the Tribunal in the Tribunal within a period of two months from today. On deposit of this amount, the Tribunal is directed to invest the same in long term F.D.R. say for five years initially and proportionate monthly interest be paid to the claimants. The petitioner is free to raise this point in the main petition and the Tribunal has to decide the same if it is raised in accordance with law. The claim application is of the year 1995. The Tribunal is directed to decide the same finally within a period of six months from the date of receipt of writ of this order.

4. The civil revision application is dismissed subject to the aforesaid directions. Rule is discharged

accordingly with no order as to costs. Interim relief,
if any, granted by this court stands vacated.

zgs/-